

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of the Decision of the)	
Universal Service Administrative)	
Company by)	
)	
Marshall County School District)	File No. SLD-220105
Moundsville, West Virginia)	(FRN 592758 and 582629)
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	
)	
)	

ORDER

Adopted: March 12, 2003

Released: March 13, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Review filed by the Marshall County School District (Marshall County), Moundsville, West Virginia (Marshall County).¹ Marshall County seeks review of funding commitment decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) in regards to the above-captioned requests for support in Funding Year 2001 of the schools and libraries universal service program.² For the reasons set forth below, we deny Marshall County's Request for Review in part and remand the remainder for SLD to decide in the first instance.

2. Under the schools and libraries universal service support mechanism, eligible

¹ Letter from Nathaniel Hawthorne on behalf of the Marshall County School District, to the Federal Communications Commission, filed September 4, 2001 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c). Previously, this funding period was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus, the funding period which began on July 1, 2001 and ended on June 30, 2002, previously referred to as Funding Year 4, is now called Funding Year 2001. The funding period which began on July 1, 2002 and ends on June 30, 2003, is now known as Funding Year 2002, and so on.

schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that an applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth the school's technological needs and the services for which it seeks discounts.⁴ Once the school has complied with the Commission's competitive bidding requirements and signed a contract for the eligible services, it must file an FCC Form 471 application to notify the Administrator, among other things, of the services that have been ordered, the carrier with whom the school has signed the contract, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵

3. Marshall County appeals two funding decisions to the Commission.⁶ In its FCC Form 471, Marshall County requested, among other things not relevant here, funding for internal connections, specifically the cost for installation and maintenance of Internet access for the pre-discount amount of \$36,000 (FRN 592758), and funding for paging service from the Staley Electric Company for the pre-discount amount of \$11,559.84 (FRN 582629).⁷ SLD issued a Funding Commitment Decision Letter to Marshall County on August 7, 2001, denying both of these funding requests in full.⁸ SLD stated that the funding requests were denied because the "applicant has not provided sufficient documentation to determine the eligibility of this item."⁹

4. In its Request for Review, Marshall County asks the Commission to overturn SLD's determination, arguing that it had provided SLD with a copy of the month-to-month proposal from RESA for FRN 592758 and the existing bill for paging service from Staley Paging for FRN 582629, and that "[n]o additional data was requested [by SLD]."¹⁰ In support of this assertion, Marshall County has provided a copy of two fax transmissions dated May 29, 2001,

³ 47 C.F.R. §§ 54.402, 54.503.

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ In its Request for Review, Marshall County also appealed SLD's denial of its funding request for Internet access services and internal connections services to be provided by the Regional Education Service Agency of West Virginia (RESA). *See* Request for Review. On January 11, 2002, however, Marshall County filed a request to withdraw its appeal concerning the RESA Internet access services. *See* Letter of Nathaniel Hawthorne, on behalf of Marshall County School District, to Federal Communications Commission, filed January 11, 2002. This Order only addresses those funding requests that were not specifically withdrawn by Marshall County.

⁷ FCC Form 471, Marshall County School District, filed January 18, 2001 (Marshall County Form 471) (Block 5, FRN 582629).

⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Paul Karas, Marshall County School District, dated August 7, 2001 (Funding Commitment Decision Letter).

⁹ *Id.*

¹⁰ Request for Review at 2.

and July 17, 2001, from Marshall County's representative in the application process, Paul Karas, to SLD.¹¹ Marshall County alleges that, because SLD did not specifically ask for further documentation regarding these requests, its funding requests should have been approved.¹²

5. The program's rules state that universal service funds support only eligible services.¹³ In order for SLD to determine whether a funding request is in compliance with program rules, an applicant must provide sufficient documentation to support its request. Specifically, Block 5 of the standard FCC Form 471 specifies that, for each funding request, applicants must at a minimum attach a description of the service, including a breakdown of components and costs, plus any relevant brand names.¹⁴ The applicant must also indicate whether the service is site-specific or shared by several entities.¹⁵

6. We have reviewed Marshall County's appeal and conclude that Marshall County has not shown that FRN 592758 was improperly denied. Given the enormous volume of applications and other submissions that SLD processes and reviews each year, it is necessary for SLD to put in place measures to ensure prompt resolution of applications. One such measure in place is an administrative procedure that applicants from whom SLD solicits additional information necessary to complete their application respond with that information within seven days of being contacted.¹⁶ The procedure has been necessary in order to prevent applicants from unduly delaying the application process. Here, SLD requested a quote for one-time and monthly charges and a breakdown of services on June 25, 2001.¹⁷ Boone County concededly did not respond until July 17, 2001. Under SLD's seven-day procedure, it properly did not consider the late information, and therefore correctly denied FRN 590131.

¹¹ See Request for Review, Attachment A (copy of facsimile transmission from Paul Karas to Alice Carmody, Schools and Libraries Division, Universal Service Administrative Company, dated July 17, 2001); Request for Review, Attachment C (copy of facsimile transmission from Paul Karas to Alice Carmody, Schools and Libraries Division, Universal Service Administrative Company, dated May 29, 2001).

¹² Request for Review at 2.

¹³ 47 C.F.R. § 54.504 *et seq.*

¹⁴ See Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form, OMB 3060-0806, November 2001 (FCC Form 471 Instructions), available at <http://www.sl.universalservice.org/data/pdf/i471y5.pdf>.

¹⁵ *Id.*

¹⁶ See *Request for Review by Nefesh Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-27881, CC Dockets No. 96-45 and 97-21, Order, DA 99-2284 (Com. Car. Bur. rel. October 22, 1999) (citing seven-day procedure). See also SLD Website, Reference Area, "Program Integrity Assurance (PIA)," <http://www.universalservice.org/reference/6pia.asp>.

¹⁷ See Universal Service Administrative Company, Schools and Libraries Division, Review Activity Log, June 25, 2001 (Review Activity Log).

7. As to FRN 582629, we find that the appeal of this FRN should be addressed by SLD in the first instance. While Commission rules provide that applicants may appeal a decision of SLD directly to the Commission without first appealing to the Administrator, the rules do not preclude the possibility that the appropriate action on a direct appeal to the Commission is to remand the appeal to SLD.¹⁸

8. We find that such a remand is appropriate in this case. The record indicates that SLD's Program Integrity Assurance (PIA) team contacted Mr. Karas on June 25 and July 16, 2001, to obtain more information regarding, among other things, the funding request for paging services at issue in this appeal.¹⁹ The record shows that Marshall County accordingly sent a facsimile transmission on July 17, 2001, to SLD, which included a copy of the bill relevant to FRN 582629. The record before us, however, does not reveal the facts and reasoning on which SLD's determination is based with clarity, *e.g.*, whether it disregarded the monthly bill information, or found that it did not support the request. A remand of the appeal will provide SLD a chance to elaborate on its reasoning and to review and address the argument made by applicant. This in turn will aid both the applicant and the Commission should Marshall County find it necessary, following SLD's decision on its appeal, to seek further review from the Commission. We emphasize that, in remanding the appeal of FRN 582629 for SLD's review and adjudication, we make no conclusions as to its merits.

9. Accordingly, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed on September 4, 2001 by the Marshall County School District, Moundsville, West Virginia, IS DENIED as to FRN 592758 and REMANDED as to FRN 582629 for SLD to resolve in the first instance.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁸ 47 C.F.R. § 54.719.

¹⁹ PIA contact logs in the record indicate that SLD contacted Mr. Karas by phone on June 25, 2001 and July 16, 2001. The SLD reviewer's notes in these logs, among other things, indicate that SLD requested bills for FRN 582629 and a bill or quote, including a breakdown of services, for FRN 592758. *See* Universal Service Administrative Company, Schools and Libraries Division, Review Activity Logs (entry for June 25, 2001) (Review Activity Logs).